

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Seminole County/Midway-Canaan Community Water Association, Inc. HUD/CDBG Subrecipient Agreement Program Year 2006-2007

DEPARTMENT: Community Services

DIVISION: CDBG

AUTHORIZED BY: David Medley

CONTACT: Becky Heckters

EXT: 2388

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute the Seminole County/Midway-Canaan Community Water Association, Inc. HUD/CDBG Subrecipient Agreement Program Year 2006-2007 in the amount of \$15,000.00.

District 5 Brenda Carey

Rob Heenan

BACKGROUND:

In 2006, professional testing was performed on the fire hydrant system within the Midway Community. The testing identified five (5) fire hydrants as defective and incapable of providing adequate fire protection to the citizens of that community. The Board provided for funding in the adoption of the HUD 2006-2007 One-Year Action Plan. CDBG funding is in place and has been budgeted to provide for services necessary to replace/repair the defective fire hydrants.

STAFF RECOMMENDATION:

Staff recommends the Board approve and authorize the Chairman to execute the Seminole County/Midway-Canaan Water Association, Inc. HUD/CDBG Subrecipient Agreement Program Year 2006-2007 in the amount of \$15,000.00.

ATTACHMENTS:

1. Agreement

Additionally Reviewed By:

☒ County Attorney Review (Arnold Schneider)

SEMINOLE COUNTY/ MIDWAY-CANAAN COMMUNITY WATER ASSOCIATION, INC.
HUD/CDBG SUBRECIPIENT AGREEMENT
PROGRAM YEAR 2006-2007

THIS AGREEMENT, entered into this 19th day of September, 2007, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY," and the **MIDWAY-CANAAN COMMUNITY WATER ASSOCIATION, INC.**, a non-profit corporation organized under the laws of the State of Florida, whose address is 2310 Jitway Street, Sanford, Florida 32772-1322, hereinafter referred to as "MIDWAY".

WHEREAS, COUNTY has made application effective October 1, 2006, and entered into a contract with the United States Department of Housing and Urban Development, hereinafter referred to as "HUD," pursuant to Title I, Housing and Community Development Act of 1974, as amended, and implementing regulations set forth in Title 24, Code of Federal Regulations (CFR), Part 570; and

WHEREAS, pursuant to the HUD application, COUNTY shall undertake certain activities to develop a viable community, including, but not limited to, sustainability through a suitable living environment and improved quality of life, principally for persons of Low and Moderate Income; and

WHEREAS, the community served by MIDWAY is inhabited by a significant number of Low and Moderate Income households; and

WHEREAS, at least five of the fire hydrants serving the Midway community have been determined to be defective and incapable of providing adequate fire protection to the citizens of that community;

WHEREAS, COUNTY has determined that it serves an essential public purpose to fund necessary repairs to or replacement of the defective hydrants owned and operated by MIDWAY; and

WHEREAS, COUNTY has allocated FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00) of HUD/CDBG funds for the Project for the 2006-2007 Program Year,

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECTION 1. RECITALS. The above recitals are true and form a material part of the Agreement upon which the parties have relied.

SECTION 2. DEFINITIONS.

(a) "CD Administrator" means the Seminole County Community Assistance Division Manager.

(b) "CDBG Program" means the Seminole County Community Development Block Grant Program (CDBG).

(c) "CDBG Regulations" means 24 CFR Part 570 and supplemental, additional, or successor provisions.

(d) "Community Services Department" means COUNTY's Community Services Department Director or his/her designee for the Community Development Office.

(e) "County Approval" means written approval by the Community Services Director, CD Administrator, or their designee.

(f) "Low and Moderate Income" means gross household income not to exceed eighty percent (80%) of the median family income within the Orlando Metropolitan Statistical Area during the term of this Agreement.

(g) "Project" means the professional design, engineering, construction, and inspection services for repairs to, or replacement of, at least five (5) aged, defective fire hydrants located in the Midway Community and which comprise part of the potable water distribution system owned and operated by MIDWAY. The particular fire hydrants comprising the Project and the tasks to be performed by MIDWAY and its selected vendors and contractors are more fully described in the Scope of Services, attached as Exhibit A to this Agreement, including Attachment A-1 thereto and in the Project Budget, attached as Exhibit B to this Agreement, all of which are fully incorporated into this Agreement by reference.

SECTION 3. STATEMENT OF WORK.

(a) MIDWAY, in a manner satisfactory to COUNTY, shall perform all Project tasks and services described or referred to in Exhibit A, Scope of Services. Such services shall be performed, except as otherwise specifically stated herein, by persons or instrumentalities solely under the dominion and control of MIDWAY.

(b) The parties recognize and agree that the purpose of this Agreement is to pay for the cost of providing professional design, engineering, and construction services for the Project and that the Agreement is directly related to the implementation of the CDBG Program. All charges and expenses shall be specifically and directly related to

MIDWAY's implementation of the CDBG Project activity funded under this Agreement and for no other purpose.

SECTION 4. TERM.

(a) COUNTY shall pay MIDWAY for the services described in Exhibit A, performed by MIDWAY up to the limits set forth in Section 5. All such services shall be performed by MIDWAY in accordance with applicable requirements of HUD with reimbursement contingent thereupon. MIDWAY shall perform and complete all Project services described in Exhibit A by no later than March 31, 2008, unless the Agreement is otherwise amended or extended by written agreement of the parties as provided hereunder. This Agreement shall remain in full force and effect until May 31, 2008. The foregoing notwithstanding, Sections 10, 11, 13, 19, and 22 shall be deemed to continue in effect after the expiration date hereof.

(b) Project activities shall conform to the following schedule:

(1) By August 15, 2007: Meeting with CD Administrator to review terms of this Agreement, proposed requests for bids, and scope of the Project.

(2) By September 30, 2007: Receipt and award of contract to successful bidder(s), subject to COUNTY approval.

(3) By November 1, 2007: Commence development of Project design, detailed plans, and construction.

(4) By March 31, 2008: Complete construction, obtain all inspection and testing approvals, and submittal of final invoicing and reports to COUNTY.

SECTION 5. PAYMENTS.

(a) COUNTY shall direct pay engineers, contractors, subcontractors, and vendors selected by MIDWAY to provide Project goods and services under this Agreement in accordance with the Project Budget. Requests for payment shall be submitted on the form attached hereto as Exhibit C, along with other required documentation.

(b) COUNTY has allocated FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00) of HUD/CDBG funds for completion of this Agreement. COUNTY will direct pay contractors and vendors for services rendered under this Agreement up to FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00). In the event that the Project does not require the full amount of FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00) as reflected in the bids received and reviewed by both parties to this Agreement, the CD Administrator reserves the right to reallocate any such remaining excess, unencumbered, or unused funds to other COUNTY CDBG funded projects. In the event any excess CDBG funds have already been paid, any such excess, unused, or unencumbered funds shall be returned by MIDWAY to COUNTY within thirty (30) days from the date of Project completion or no later than the expiration date of this Agreement, whichever occurs first.

(c) In no event shall COUNTY make payments until all goods and services rendered are invoiced by the contractor seeking payment and approved in writing by MIDWAY's President and the CD Administrator.

(d) Copies of receipts or other acceptable documentation demonstrating incurrence of each expense must be submitted with the invoice, all of which must be accompanied by a completed Request for

Payment form, attached as Exhibit C to this Agreement and incorporated herein by reference.

(e) Upon receipt of the documentation listed above, COUNTY shall initiate payment on behalf of MIDWAY, subject also to paragraph (f) below. COUNTY reserves the right to verify by site inspection when necessary that all goods, materials, labor, and services have been properly invoiced. Payment shall be made as soon as practicable; provided, however, that if MIDWAY, its vendors, contractors, and subcontractors have performed services in full compliance with all CDBG requirements and properly invoiced the request for payment, payment shall be rendered by COUNTY within thirty (30) days of its receipt of payment request.

(f) Within thirty (30) days after completion of all services to be performed under this Agreement, MIDWAY shall render a final and complete statement to COUNTY of all costs for goods and services not previously invoiced. COUNTY shall not be obligated to pay any charges, claims, or demands of MIDWAY or its contractor(s) and vendor(s) not properly invoiced and received by COUNTY within said thirty (30) day period. However, such time period may be extended at the sole discretion of COUNTY for one (1) additional thirty (30) day period by written notice to MIDWAY, provided that any delay in submission is not occasioned by fault or negligence of MIDWAY, as determined by COUNTY.

(g) Any goods or services not allotted in the Project Budget, or not undertaken in compliance with this Agreement, will only be paid by

COUNTY if the CD Administrator has issued prior written approval of such goods or services and subject to formal amendment to this Agreement.

(h) MIDWAY shall not acquire any interest in real property or benefits derived from an owner of any real property, directly or indirectly, utilizing CDBG Funds provided by COUNTY hereunder unless MIDWAY has first received written authorization from the CD Administrator. Any such activities utilizing funds derived under this Agreement without COUNTY approval is strictly prohibited and shall result in termination of this Agreement and denial of any payment or reimbursement otherwise authorized hereunder. Additionally, any such activity undertaken by MIDWAY shall fully comply with the Uniform Administrative Requirement specified in Section 6(b)(vii) of this Agreement.

SECTION 6. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAW AND REGULATIONS. MIDWAY shall comply with all federal, state, and local laws and regulations in its performance of this Agreement. It is further understood that the following are laws and regulations which will directly govern implementation of this Agreement:

(a) Uniform Administrative Requirements: 24 C.F.R., Section 570.610, imposing uniform administrative requirements and cost principles on recipients and subrecipients, including particularly as contained in 24 C.F.R. Parts 84 and 85; 24 C.F.R., Section 570.502; United States Office of Management and Budget ("OMB") Circulars A-122 ("Cost Principles For Non-Profit Organizations") and A-110 ("Uniform Administrative

Requirements for Grants and Other Agreements Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations").

(b) Other Federal Program Requirements: MIDWAY shall also comply with the remaining regulations in 24 CFR 570, Subpart K (§§ 570.600-570.614, inclusive). Said regulations shall include the following sections:

(i) 570.600 - Decrees that the Secretary of HUD will apply the provisions of Subpart K as being applicable to all grants made under the CDBG program.

(ii) 570.601 - Requires adherence to Public Law 88-352, ("1964 Civil Rights Law"), Public Law 90-284 ("1968 Civil Rights Act of 1968"), and Executive Order 11063 ("Equal Opportunity in Housing");

(iii) 570.602 - Prohibits discrimination on the basis of race, sex, or age for activities under the program;

(iv) 570.603 - Requires adherence to the labor standards embodied in the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act in accordance with Section 110 of Title I of The Housing and Community Development Act, i.e., 42 U.S.C. 5301, et seq. (the "Act").

(v) 570.604 - Refers grant recipients to Section 104(g) of the Act and 24 CFR Part 58 for those regulations and procedures aimed at furthering the purposes of the National Environmental Policy Act of 1969. The foregoing notwithstanding, MIDWAY shall not assume COUNTY's environmental responsibilities, as described in 24 CFR Sec. 570.604 "Environmental Standards", nor COUNTY's responsibility to initiate an environmental review process. However, MIDWAY is not exempt from

performing site-specific environmental reviews in accordance with state and local regulations, nor is MIDWAY released from any environmental pollution that it may cause or have caused, and MIDWAY shall assume full liability therefore.

(vi) 570.605 - Governs participation in the National Flood Insurance Program pursuant to Section 202(a) of the Flood Disaster Protection Act of 1973 and 44 CFR Parts 59 through 79.

(vii) 570.606 - Requires that grant recipients and subrecipients adopt and utilize policies that best assure minimizing displacement of persons, families, businesses, farms, and non-profit organizations from areas of grant funded, rehabilitation activities pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. §§ 4601-4655.

(viii) 570.607 - Applies Executive Orders 13279 as well as 11246, the latter being amended by Executive Orders 11375, 11478, 12086, and 12107 prohibiting racial, gender, ethnic, or religious discrimination in employment during the performance of federally assisted construction projects.

(ix) 570.608 - Applies the Lead Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821-4846) and the Residential Lead Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§ 4851-4856) to all grant funded activities.

(x) 570.609 - Prohibits the use of debarred, suspended, or ineligible contractors or other subrecipients on grant funded projects.

(xi) 570.611 - Establishes the bidding requirements, the code of conduct, and conflict of interest provisions applicable for the procurement of goods and services and post award contract administration relative to activities funded under 24 C.F.R. Part 570.

(xii) 570.612 - Requires adherence to any state imposed standards of intergovernmental review for those infrastructure improvements involving water, sewer, and storm water facilities.

(xiv) 570.613 - Restrictions on eligibility for employment and financial assistance benefits for certain residents, newly legalized aliens.

(xv) 570.614 - Requires that any public buildings and other facilities constructed with CDBG funds be compliant with the Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151-4157) and the Americans with Disabilities Act (42 U.S.C. § 12131 and 47 U.S.C. §§155, 201, 218, and 225).

(c) Compliance With State and Local Laws and Regulations: During the execution and implementation of this Agreement, MIDWAY shall comply with all applicable state and local laws, regulations, and ordinances, including, but not limited to the following:

(1) Chapter 112, Part III, Florida Statutes - "Code of Ethics for Public Officers and Employees". MIDWAY shall not engage in any actions under this Agreement that would create a conflict of interest for itself or involving any of its employees pursuant to Section 112.312(15), Florida Statutes.

(2) Chapter 119, Florida Statutes - Public Records.

(3) Section 220.115, Seminole County Code, prohibiting the illegal use of public monies for unethical purposes involving COUNTY personnel. Violations of said Code provision shall be grounds for unilateral termination of this Agreement by COUNTY.

(4) MIDWAY shall comply with the "Local Relocation and Antidisplacement Policy" (the "Policy") as adopted by COUNTY. Should MIDWAY's performance during this Agreement necessitate, as determined by applicable federal regulations, compliance with the Uniform Relocation Assistance and Real Property Act (the "Act"), MIDWAY shall immediately notify COUNTY accordingly. Upon such notification, COUNTY shall implement and administer all requirements of the Policy and the Act pursuant to this Agreement. The parties agree that should the aforementioned occur, COUNTY shall use funds budgeted in Exhibit B to pay for relocation and displacement costs required hereunder.

SECTION 7. PROJECT PUBLICITY. Any news release, project sign, or other type of publicity pertaining to the Project described herein shall recognize the Seminole County Board of County Commissioners as the recipient of funding by HUD and providing CDBG funds to MIDWAY.

SECTION 8. MANAGEMENT ASSISTANCE. The CD Administrator shall be available to MIDWAY to provide guidance on CDBG requirements.

SECTION 9. REPORTING REQUIREMENTS. MIDWAY shall fully complete and provide to the CD Administrator a monthly report in the form attached hereto as Exhibit D (incorporated herein) summarizing the number of active Project components under construction, all bid information, and construction summaries. MIDWAY shall provide the monthly reports no later

than the fifteenth (15th) day of each month. Failure by MIDWAY to submit a monthly report shall allow COUNTY to withhold reimbursement payment on the Request for Payment submitted by MIDWAY until the required monthly report is submitted as mandated herein. Further, MIDWAY shall fully complete and provide to the CD Administrator, in a timely manner, an "End of Project Report," attached hereto as Exhibit E and incorporated herein by reference. COUNTY shall have access to and be provided copies and transcripts of any records necessary to accomplish this obligation in the sole determination of COUNTY or HUD.

SECTION 10. MAINTENANCE OF RECORDS.

(a) MIDWAY shall maintain all records required by federal, state and local laws, rules, and regulations for a period of no less than five (5) years from the date of the final Project audit or such longer period as may be required by federal or state law. If litigation is commenced regarding any matters which are the subject of this Agreement, then such records shall be maintained until the litigation is concluded. Required records shall include:

(1) All accounts, property, and personnel records deemed necessary by COUNTY to ensure proper accounting of all Project funds and compliance with this Agreement.

(2) Financial records regarding the following:

(A) Invoices, receipts, and cancelled checks of all items purchased by MIDWAY pursuant to this Agreement;

(B) Bills and invoices for all services purchased by MIDWAY pursuant to this Agreement;

(C) Labor Force account construction including the records indicating name, position, number of hours, and total labor costs.

(D) All capital expenditures in excess of SEVEN HUNDRED FIFTY AND NO/100 DOLLARS (\$750.00), including a description, model, serial number, cost of acquisition, and date.

(b) MIDWAY shall prepare or cause to be prepared by its accountant a balance sheet, income statement and statement of changes in financial position and provide copies thereof to the CD Administrator within thirty (30) days of completion. Such financial reporting shall be completed for each fiscal year or part thereof during which this Agreement is in effect.

(c) All records, financial statements, and contracts of whatsoever type or nature required by this Agreement shall be available for audit, inspection, and copying in accordance with Chapter 119, Florida Statutes. COUNTY shall have the right to obtain and inspect any audit or other documents pertaining to the performance of the Agreement made by any federal, state, or local agency.

SECTION 11. LIABILITY. Except for any payment specifically set forth herein, COUNTY shall not be liable to any person, firm, entity, or corporation in connection with the services MIDWAY has agreed to perform hereunder, or for debts or claims accruing to such parties against MIDWAY. This Agreement shall not create a contractual relationship, either express or implied, between COUNTY and any other person, firm, or corporation supplying any work, labor, services, goods, or materials to

MIDWAY as a result of this Agreement, including consultants, contractors, subcontractors, and vendors who may from time to time be employed by MIDWAY.

SECTION 12. SUBCONTRACTS AND PERFORMANCE BONDS.

(a) All contracts made by MIDWAY to perform the activities described in Exhibit A shall comply with all applicable laws, rules, and regulations set forth in the Agreement. Only contracts and subcontracts for work or services as set forth in Exhibit A are authorized by this Agreement. Any further work or services which MIDWAY wishes to subcontract must be approved in writing by the CD Administrator and may not exceed the financial restraints forth in Section 5 of this Agreement.

(b) All Project consultants, contractors, subcontractors, vendors and material suppliers shall be pre-approved by COUNTY before MIDWAY enters into any contract with such person(s). MIDWAY shall provide COUNTY a copy of the proposed contract(s) at the time approval is sought. COUNTY shall have fifteen (15) days from the date of receipt of the request and the copy of the proposed contract(s) to approve or disapprove the selected person(s). Approval or disapproval shall be in writing and signed by the CD Administrator. COUNTY's failure to timely provide written notice shall be deemed as an approval, and MIDWAY shall then be free to enter into the contract without further delay. MIDWAY shall be fully responsible for the adequacy of services performed and materials provided by Project vendors and contractors and for prompt satisfaction or removal of any liens that may be filed by such persons. Failure to adhere to these

terms shall be a default under this Agreement and shall be grounds for COUNTY to withhold subsequent payments. All contractors shall be properly licensed and subject to the same insurance requirements as MIDWAY under this Agreement.

(c) All consultants, vendors, and contractors shall be required to post a performance bond at least equal to the dollar value of the contracted goods and services. MIDWAY shall furnish the COUNTY with a copy of the subject performance bond(s) in the full amount of the Project costs. The performance bond shall be issued by a reliable surety company in a form acceptable to COUNTY. Said bond shall insure that the time of delivery of goods and services is satisfactorily met, that the work performed and equipment or materials supplied meet all specifications, and that all warranties shall be honored. Such performance bonds shall be payable to both MIDWAY and COUNTY. If at any time after the execution of this Agreement, COUNTY shall deem the surety or sureties to be unsatisfactory, or if for any reason the performance bond ceases to be adequate to cover the performance and payments of the work, MIDWAY shall, at it's own expense if necessary and within fifteen (15) days after receipt of Notice from the COUNTY to do so, furnish additional bonds in such form and amounts and with such sureties as shall be satisfactory to COUNTY.

SECTION 13. INDEMNIFICATION.

(a) MIDWAY shall hold harmless and indemnify COUNTY from and against any and all liability, loss, claims, damages, costs, attorney's fees, and expenses of whatsoever kind, type, or nature which COUNTY may

sustain, suffer, or incur or be required to pay by reason of the following: loss of any monies paid to or on behalf of MIDWAY or whomsoever resulting out of MIDWAY's or its contractor's fraud, defalcation, dishonesty, or failure to comply with applicable laws or regulations; any act or omission of MIDWAY in the performance of this Agreement or any part thereof; a judgment over and above the limits provided by the insurance required hereunder or by any defect in the construction of the Project; or as may otherwise result in any way or instance whatsoever arising from this Agreement.

(b) In the event that any action, suit, or proceeding is brought against COUNTY upon any alleged liability arising out of the Agreement, or any other matter relating to this Agreement, COUNTY shall promptly provide appropriate notice, in writing, to MIDWAY by registered or certified mail, return receipt requested, addressed to MIDWAY at the address provided hereinafter. Upon receiving such notice, MIDWAY, at its own expense and to the extent permitted by law, shall diligently defend against such action, suit, or proceeding and take all action necessary or proper to prevent the issuance of a judgment against COUNTY. COUNTY shall cooperate to a reasonable extent in MIDWAY'S defense of any such action, suit, or proceeding.

(c) The provisions of Section 768.28, Florida Statutes, shall govern matters of sovereign immunity and limited liability for damages with respect to COUNTY.

SECTION 14. INSURANCE.

(a) MIDWAY shall ensure that its insurance coverage or self-insurance program and the insurance coverage of its contracted agents conforms to and complies with all applicable federal, state, and local regulations and is adequate and sufficient to insure all activities performed pursuant to the Agreement against property damage or loss, human injury, and other casualty.

(b) All outside consultants, Project managers, contractors, and subcontractors shall be fully insured in the amounts and types of insurance specified in Exhibit F to this Agreement, which Exhibit is incorporated herein by reference. Proof of such insurance shall be made available to COUNTY upon request.

SECTION 15. NON-ASSIGNABILITY. Neither party shall assign the Agreement without the prior written consent of the other in a document of equal dignity herewith.

SECTION 16. HEADINGS. All articles and descriptive headings of paragraphs in this Agreement are inserted for convenience only and shall not affect the construction or interpretation hereof.

SECTION 17. PROGRAM INCOME. In the event that any program income is received by MIDWAY as a direct result of the investment of any COUNTY funds awarded under this Agreement during or after the term of the Agreement, MIDWAY shall immediately render such program income to COUNTY for proper accounting in the CDBG fund.

SECTION 18. NON-EXPENDABLE PROPERTY. Any non-expendable personal property acquired by MIDWAY through funds issued by COUNTY pursuant to

this Agreement shall be subject to all federal, state, and local regulations, including, but not limited to, the provisions on use and disposition of property. At the termination of this Agreement, any such property shall be made available to COUNTY and HUD in accordance with the aforesaid provisions.

SECTION 19. REVERSION OF ASSETS. Upon expiration of this Agreement, MIDWAY shall immediately transfer to COUNTY any remaining unused CDBG funds and any accounts receivable attributable to the use of CDBG funds distributed pursuant to this Agreement.

SECTION 20. SUSPENSION AND TERMINATION. In accordance with 24 C.F.R. Sections 84.60-62, COUNTY may immediately suspend or terminate any term or condition hereunder. Notice thereof shall be provided pursuant to this Agreement. This Agreement may also be terminated for reasons of enforcement or convenience in accordance with 24 C.F.R., Sections 85.43 and 85.44 or for cause by COUNTY.

SECTION 21. BREACH. Any failure to comply with the Scope of Services or other terms of this Agreement, including particularly, the timely performance and completion of the Project by the date specified in Section 4 hereof, shall constitute a breach of this Agreement.

SECTION 22. ENFORCEMENT OF AGREEMENT AND REMEDIES. Upon determination that a breach has occurred, COUNTY reserves all legal and equitable rights to enforce this Agreement and/or recover any monies paid to MIDWAY pursuant to this Agreement. Specifically and additionally, COUNTY shall have the following available remedies:

- (a) Immediately terminate the Agreement, with or without notice;

(b) Reallocate the remaining uncommitted funds toward another CDBG program;

(c) Withhold issuance of any further funds, regardless of whether such funds have been encumbered by MIDWAY;

(d) Demand MIDWAY immediately repay any monies expended in accordance with the Agreement;

(e) Require specific performance of the Agreement;

(f) Demand payment and/or performance from the surety, if applicable;

(g) Impose a lien upon any and all of MIDWAY's real or personal property. To create such a lien, COUNTY shall send a letter to MIDWAY demanding refund of any monies expended to MIDWAY pursuant to this Agreement. Said letter shall be recorded in the public records of Seminole County and thereafter shall constitute a lien upon MIDWAY's real and personal property; and/or

(h) Initiation of legal or equitable proceedings in a court of competent jurisdiction.

SECTION 23. CERTIFICATION REGARDING LOBBYING. MIDWAY hereby certifies that to the best of its knowledge and belief:

(a) No federally appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for influencing or attempting to influence any officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal

loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence any officer or employee of any agency, a member of Congress, an officer or employee of Congress, or any employee of a member of Congress in connection with this Agreement, MIDWAY shall complete and submit a "Disclosure of Lobbying Activities" (Standard Form SF-LLL) or its equivalent as approved by the Office of Management and Budget.

SECTION 24. NOTICE. Whenever either party desires to give notice unto the other, notice may be sent to:

For COUNTY:

CD Administrator
Community Development Office
534 W. Lake Mary Blvd.
Sanford, Florida 32773

For MIDWAY:

President
Midway-Canaan Community Water Association, Inc.
P.O. Box 1322
Sanford, FL 32772-1322

Either of the parties may change the address or person for receipt of notice.

SECTION 25. ENTIRE AGREEMENT; EFFECT ON PRIOR AGREEMENT. This instrument constitutes the entire agreement between the parties and supersedes all previous discussions, understandings, and agreements, if any, between the parties relating to the subject matter of this Agreement. Both parties agree that they had the opportunity to seek legal

counsel in connection this their review and execution of this Agreement. Accordingly, this Agreement shall not be construed in favor of one party and against the other merely because it was substantially drafted by only one of the parties.

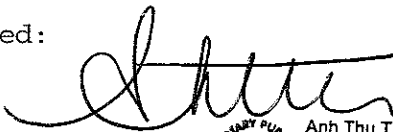
SECTION 26. AMENDMENT. This Agreement may be amended from time to time by mutual agreement of the parties by adoption and execution of a written instrument of equal dignity herewith. The foregoing notwithstanding, a change in the parties designated for Notice pursuant to Section 24 hereof may be made by written notice sent via U.S. Mail to the other party and without the need for formal amendment to this Agreement.

SECTION 27. SEVERABILITY. If any one or more of the covenants or provisions of this Agreement shall be held to be contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall, for any reason whatsoever, be held invalid, then such covenants or provisions shall be null and void, shall be deemed separable from the remaining covenants or provisions of the Agreement, and shall, in no way, affect the validity of the remaining covenants or provisions of the Agreement.

(Signature Page Follows)

IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed:

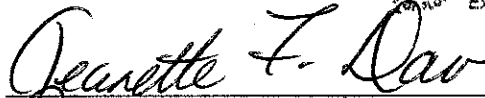
ATTEST:

 9/19/07

MIDWAY-CANAAN COMMUNITY WATER
ASSOCIATION, INC.

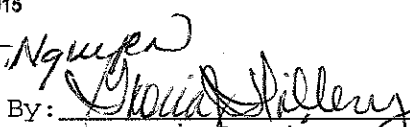


Anh Thu T. Nguyen
My Commission DD304015
Expires March 25, 2008


Jeannette F. Davila
Secretary

CORPORATE SEAL

By:

 9/19/07
Anh Thu T. Nguyen
My Commission DD304015
Expires March 25, 2008

Date:

9/19/07

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By:

CARLTON HENLEY, Chairman

Date:

For the use and reliance
of Seminole County only.

Approved as to form and
legal sufficiency.

As authorized for execution by
the Board of County Commissioners
at their _____, 20____
regular meeting.

County Attorney

Attachments:

1. Exhibit A - Scope of Services
2. Exhibit B - Project Budget, Including Attachment 1 (Site Plan of Project)
3. Exhibit C - Request for Payment Form
4. Exhibit D - Monthly Report Form
5. Exhibit E - End of Project Report Form
6. Exhibit F - Minimum Insurance Requirements For Contractors

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EXHIBIT A

SCOPE OF SERVICES

Capitalized words and terms herein shall have the same meanings ascribed to them as defined in the attached Agreement.

GENERALLY:

MIDWAY-CANAAN shall replace or repair at least FIVE (5) defective fire hydrants in the Midway Community identified in Attachment A-1 hereto. MIDWAY-CANAAN shall obtain written price quotations from at least three (3) qualified state certified consulting engineers and/or contractors with demonstrated experience in the installation and repair of fire control systems, including hydrants, to prepare Project specifications, cost estimates, and firm quotations based upon existing inspections, reports, and available data for said hydrants. If the selected firm is to serve as project manager separate from the contractor retained to implement the project construction activities, MIDWAY-CANAAN shall also solicit competitive bids from at least three similarly qualified contractors as a precondition to the award of any such contract(s). COUNTY shall direct pay those vendors and contractors selected by MIDWAY for Project costs up to the amount specified in the Agreement and in Exhibit B upon the final inspection and approval of the completed repair or replacement of the five (5) fire hydrants.

SPECIFIC OBLIGATIONS

(a) MIDWAY-CANAAN shall identify the essential components of the Project scope of services related to management and engineering as well as those for construction or repair services. Both phases of such services may be undertaken by one firm or be awarded to two different entities.

(b) Firms selected shall be state certified as required for the professional services to be rendered. A firm selected for Project Management or engineering consultation shall have at least one registered professional engineer among the principal officers of the firm and who will be available to render opinions with respect to the Project. Any firm selected for actual repair or constructions services shall be a State of Florida certified contractor with a minimum of two years experience in the installation, excavation, and repair of fire control/hydrant systems. Each firm hired shall be required to post a performance bond at least equal to the total Project costs under its respective contract. Such bonds shall be payable to MIDWAY-CANAAN and COUNTY in the event of delinquent or failed performance by such contractor. Additionally, selected vendors and contractors shall be insured for the types and amounts of insurance required by Exhibit F to the Agreement.

(c) MIDWAY-CANAAN shall prepare all documents required for price quote solicitation. All written price quotations solicitations shall be submitted to the COUNTY for review and approval as to compliance with the terms hereof and with HUD requirements prior to commencement of the written price quotation process.

(d) MIDWAY-CANAAN shall solicit at least three (3) written price quotations, providing vendors and contractors a specific statement of required licensing, insurance and minimum qualifications for consideration, as well as a detailed description of the Project and deadline for a response to be filed.

(e) Following the close of the written price quotation process period, COUNTY and MIDWAY-CANAAN shall jointly review the written price quotations received and the respondents' qualifications. MIDWAY-CANAAN shall select, upon COUNTY approval, the vendor to be awarded the contract for Project management, design, specifications, and cost estimates as well as the contractor to be awarded the contract for Project work. MIDWAY-CANAAN shall timely prepare (or have prepared) and execute a contract with the selected vendor(s) and contractor(s).

(f) Upon the award of Project contractor(s), representatives of MIDWAY, COUNTY, and the selected contractor(s) shall hold a joint meeting to identify Project manager(s) and supervisor(s) and to discuss particular components, responsibilities, and timelines for Project implementation.

(g) During the term of the Agreement and while the Project is in process, MIDWAY-CANAAN shall complete and file with the COUNTY Monthly Reports in the form of Exhibit C to the Agreement.

(h) At the completion of the Project or the expiration or termination of this Agreement, MIDWAY-CANAAN shall complete and file an End of Project Report in the form of Exhibit D to the Agreement which report shall form the basis for application of COUNTY's CDBG funds allocated under the Agreement. The End of Project Report shall be documented with proof of satisfactory inspection and testing of the fire hydrants indicating compliance with standards NFPA-24 and NFPA-25 as required by Section 633.082, Florida Statutes, as well as compliance with all local code requirements.

(i) Payment for Project costs shall be made by COUNTY upon submission of a completed Request for Payment form, attached as Exhibit C to the Agreement. The Request for Payment must be accompanied by originals or copies of invoices signed by the vendors seeking payment and the president of MIDWAY-CANAAN. Payment by COUNTY shall only be made for those costs which have been properly documented. In no event shall COUNTY pay for any amounts not invoiced by the expiration date of the Agreement or which are for an amount in excess of FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00).

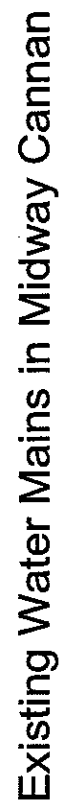


EXHIBIT B

PROJECT BUDGET

Midway-Canaan Community Water Association, Inc.

Fire Hydrant Project

Activity	Budget
Payment for construction activities to Replace/Repair Five (5) Identified Fire Hydrants in the Midway Community.	<u>\$15,000.00</u>
TOTAL CDBG 2006-2007	\$ 15,000.00

EXHIBIT C

REQUEST FOR PAYMENT

Midway-Canaan Community Water Association, Inc.

CDBG 2006-2007

Subrecipient: Midway-Canaan Community Water Association, Inc.

Name of Activity: Midway Community Fire Hydrant Project

Mailing Address: 2310 Jitway Street
Sanford, Florida 32772-1322

Contact Person: _____

Payment Request No: _____ Telephone Number: _____

Activity	(A) Original Budget Amount	(B) Previous Total Paid to Date	(C) Payment Amount this Request	(D) (D Equals B Plus C) This Total equals Paid To Date	(A Minus D) Budget Balance
Fire Hydrant Project	\$15,000.00	\$	\$	\$	\$
TOTAL	\$15,000.00	\$	\$	\$	\$

Attach a copy of all supporting documentation for this Payment Request

Estimated Activity Completion Date: _____

Subrecipient/Interlocal Agreement Required Completion Date: December 31, 2007

Submitted By: _____ Title: _____

Signature: _____ Date: _____

EXHIBIT D

MONTHLY REPORT

Midway-Canaan Community Water Association, Inc.

CDBG 2006-2007

Status Report for Month of _____

SUBRECIPIENT INFORMATION

Subrecipient: Midway-Canaan Community Water Association, Inc.

Mailing Address: 2310 Jitway Street, Sanford, Florida 32772-1322

Person: _____ Contact _____

Telephone _____

NARRATIVE DESCRIPTION OF ACTIVITY STATUS/MILESTONES:

III. BUDGET STATUS

ACTIVITY	(A) Original Budget Amount	(B) Previous Total Paid to Date	(C) Payments this Month	(D) (D Equals B Plus C) Total Paid to Date	Outstanding Obligations	(A Minus D) Budget Balance
Fire Hydrant Project	\$15,000.00	\$	\$	\$	\$	\$
TOTAL	\$15,000.00	\$	\$	\$	\$	\$

Any other special accomplishments:

Signed: _____

EXHIBIT E

END OF YEAR REPORT

Midway-Canaan Community Water Association, Inc.

CDBG 2006-2007

Type of service provided: Improve quality/increase quantity of public improvements for lower income persons

HUD IDIS Matrix Code: 03J Water/Sewer Improvements 570.201(c)

Total number of people who now have improved and increased access to this service or benefit: _____

Objective: Suitable Living Environment

Outcome: Sustainability

White/ Hispanic	Black/ African American/ Hispanic	Asian/ Hispanic	American Indian/Alaskan Native/ Hispanic	Native Hawaiian/ Other Pacific Islander/ Hispanic	American Indian/Alaskan Native & White/ Hispanic	Asian & White/ Hispanic	Black/African American & White/ Hispanic/	American Indian/Alaskan Native & Black African/ American/ Hispanic	Other Multi-racial/ Hispanic	Female Head of Household

Any other special accomplishments:

Signed: _____ Date: _____

COUNTY TO SUPPLY DATA FOR THIS PROJECT

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MIDWAY-CANAAN COMMUNITY WATER ASSOCIATION, INC.
HUD/CDBG 2006-2007

EXHIBIT F
MINIMUM INSURANCE REQUIREMENTS FOR CONTRACTORS

(a) General. Contractor shall, at its own cost, procure the insurance required under this Section.

(1) Contractor shall furnish MIDWAY with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required by this Section (Workers' Compensation/Employer's Liability and Commercial General Liability). MIDWAY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy. The Certificate of Insurance shall provide that MIDWAY shall be given not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by Contractor, Contractor shall provide MIDWAY with a renewal or replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided.

(2) The Certificate shall contain a statement that it is being provided in accordance with the Agreement and that the insurance is in full compliance with the requirements of the Agreement.

(3) In addition to providing the Certificate of Insurance, Contractor shall, within thirty (30) days after receipt of a written request, provide MIDWAY (and if so requested provide COUNTY) with a certified copy of each of the policies of insurance providing the coverage required by this Section.

(4) Neither approval nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of its full responsibility for performance of any obligation including indemnification of MIDWAY for contractor neglect or intentional torts.

(b) Insurance Company Requirements. Insurance companies providing the insurance under this Agreement must meet the following requirements:

(1) Companies issuing policies other than Workers' Compensation must be authorized to conduct business in the State of Florida and prove same by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by Section 440.57, Florida Statutes.

(2) In addition, such companies other than those authorized by Section 440.57, Florida Statutes, shall have and maintain a Best's Rating of "A" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.

(3) If during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: (i) lose its Certificate of Authority, (ii) no longer comply with Section 440.57, Florida Statutes, or (iii) fail to maintain the requisite Best's Rating and Financial Size Category, Contractor shall, as soon as it has knowledge of any such circumstance, immediately notify MIDWAY and immediately replace the insurance coverage provided by the insurance company with a different insurance company

meeting the requirements of this Agreement. Until such time as Contractor has replaced the unacceptable insurer with an insurer acceptable to MIDWAY, Contractor shall be deemed to be in default of its contractual responsibilities.

(c) Specifications. Without limiting any of the other obligations or liability of Contractor, Contractor shall, at its sole expense, procure, maintain, and keep in force amounts and types of insurance conforming to the minimum requirements set forth herein. Except as otherwise specified in the Agreement, the insurance shall become effective prior to the commencement of work by Contractor and shall be maintained in force until the Agreement completion date. The amounts and types of insurance shall conform to the following minimum requirements.

(1) Workers' Compensation/Employer's Liability.

(A) Contractor's insurance shall cover Contractor for liability which would be covered by the latest edition of the standard Workers' Compensation Policy as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. Contractor will also be responsible for procuring proper proof of coverage from its subcontractors of every tier for liability which is a result of a Workers' Compensation injury to the subcontractor's employees. The minimum required limits to be provided by both Contractor and its subcontractors are outlined in subsection (c) below. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included and any other applicable Federal or State law.

(B) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(C) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be:

\$ 500,000.00	(Each Accident)
\$1,000,000.00	(Disease-Policy Limit)
\$ 500,000.00	(Disease-Each Employee)

(2) Commercial General Liability.

(A) Contractor's insurance shall cover Contractor for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment, and the elimination of coverage for Fire Damage Legal Liability.

(B) The minimum limits to be maintained by Contractor (inclusive of any amounts provided by an Umbrella or Excess policy) shall be as follows:

	<u>LIMITS</u>
General Aggregate	Three (3) Times the Each Occurrence Limit
Personal & Advertising Injury Limit	\$500,000.00
Each Occurrence Limit	\$500,000.00

(3) Builder's All Risk Insurance. If the Contract includes construction of or additions to above ground buildings or structures, Builder's Risk coverage must be provided as follows:

(A) Form. Builder's All Risk Coverage. Coverage is to be no more restrictive than that afforded by the latest edition of Insurance Services Office Forms CP 00 20 and CP 10 30.

(B) Amount of Insurance. The amount of coverage shall be equal to one hundred percent (100%) of the completed value of such additions, buildings or structures.

(C) Maximum Deductible: FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) each claim.

(D) Waiver of Occupancy Clause or Warranty. The policy must be specifically endorsed to eliminate any "Occupancy Clause" or similar warranty or representation that the buildings, additions, or structures in the course of construction shall not be occupied without specific endorsement of the policy. The policy must be endorsed to provide that Builder's Risk coverage will continue to apply until final acceptance of the buildings, additions, or structures by purchaser.

(E) Exclusions. Exclusions for design errors or defects, theft, earth movement and rainwater shall be removed.

(F) Flood Insurance. If buildings or structures are located within a special flood hazard area, flood insurance must be afforded for the lesser of the total insurable value of such buildings or structures, or the maximum amount of flood insurance coverage available under the National Flood Program.

(d) Coverage. The insurance provided by Contractor shall apply on a primary basis and any other insurance or self-insurance maintained by MIDWAY or its officials, officers, or employees shall be in excess of and not contributing to the insurance provided by or on behalf of Contractor.

(e) Occurrence Basis. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis.

(f) Obligations. Compliance with the foregoing insurance requirements shall not relieve Contractor, its employees, or its agents of liability from any other contractual obligations.